

## **REMARKS**

In the Office Action dated April 5, 2006, claims 1-25 were presented for examination. The Examiner rejected claims 1-12, 17-19, 21, 22, 24, and 25 under 35 U.S.C. §101. The Examiner rejected claims 1-25 under 35 U.S.C. §112, second paragraph. The Examiner rejected claims 1-25 under 35 U.S.C. §102(b).

The following remarks are provided in support of the pending claims and responsive to the Office Action of April 5, 2006 for the pending application.

### **I. Rejection under 35 U.S.C. §101**

In the Office Action dated April 5, 2006, the Examiner rejected claims 1-12, 17-19, 21, 22, 24, and 25 under 35 U.S.C. §101 indicating the claims are directed to non-statutory subject matter. More specifically, the Examiner has indicated that the language of claim 1, and claims 2-11, as being directed to an abstract idea. It is unclear from the brief language provided by the Examiner as to where the deficiencies in the claims lie. Applicant has amended claim 1 to further claim how the actions are embodied in the form of computer implemented instructions in a multiprocessor computing system.

The Examiner has further indicated that the language of claim 12 and 22, as being directed to software and having no tangible result. Applicant's claims 12 and 22 are each directed to a processor in a multiprocessor computer system. Applicant has amended claims 12 and 22 as containing a "computer readable medium" and instructions to be executed in the medium, as suggested by the Examiner on Page 3 of the Office Action. The amendments to the claims presented herein focus on the relationship of the processor and the instructions to be executed thereon. The structure of these claims as amended is not an abstract idea, but rather is a concrete and tangible form that accomplishes a practical application. Accordingly, Applicant respectfully requests that the Examiner remove the rejection of claims 1-12, 17,19, 21, 22, and 24 under 35 U.S.C. §101

## **II. Rejection under 35 U.S.C. §112, second paragraph**

In the Office Action dated April 5, 2006, the Examiner rejected claims 1-25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Examiner rejected claim 1 and the relationship between the “new element” and an “old element” not positively claimed. Applicant has amended claim 1 to further define the “new element” in a shared resource with respect to an existing element in the shared resource. In addition, Applicant has made similar amendments to claims 12 and 22. Language for these amendments can be found in the original specification on page 9, lines 13-19. These amendments have not added any new subject matter to the subject application. Accordingly, Applicant respectfully requests that the Examiner remove the rejection of claims 1-25 under 35 U.S.C. §112, second paragraph.

## **III. Rejection under 35 U.S.C. §102(b)**

Claims 1-25 were rejected under 35 U.S.C. §102(b) as being anticipated by *Robertson*, U.S. Patent No. 5,850,632.

Applicant hereby incorporates the comments and remarks made to the *Robertson* patent ‘632 in response to the prior Office Actions and the Appeal Brief.

The Examiner has asserted that program counter register of *Robertson* is equivalent to the pointer claimed by Applicant. Applicant’s amended independent claims clearly state storing a pointer from an existing shared resource to a new element of the shared resource. It is inherent that a shared resource is stored in non-local memory, since by its very nature a shared item has to be available in a non-local manner so that the objects sharing the item can access the item. To accomplish this, the Examiner asserts that the memory configuration cache of *Robertson* ‘632 is non-local memory. Based on this assertion by the Examiner, *Robertson* ‘632 must store the value of the program counter in non-local memory, *i.e.* memory configuration cache. However, the memory configuration cache of *Robertson* stores memory configuration information for the memory configuration service unit. The memory configuration service unit of *Robertson* is an

ASIC (application specific integrated circuit) which stores address ranges. See Col. 9, lines 18-21. There is no program counter in *Robertson's* memory configuration cache, *i.e.* non-local memory adapted to contain a shared resource, because *Robertson's* memory configuration cache stores memory configuration information for the memory configuration service unit, which does not have a program counter. *Robertson's* memory configuration service unit stores address ranges - not a program counter. Furthermore, the Examiner states that "the program counter is stored in the program counter register in the *Robertson* '632's system", See Office Action dated April 5, 2006 pages 12 and 13, and implies that the program counter register is in the system and not in non-local memory. Applicant's claims clearly state that the pointer pertains to a shared resource, *i.e.* non-local memory, which it inherently must be since it is a part of a shared resource. Clearly, *Robertson* does not expressly or inherently describe storing a pointer, or an equivalent thereof, to a new element of a shared resource in non-local memory. As indicated by the Examiner, the program counter of *Robertson* is stored in a program counter register in the system, not inherently in non-local memory. Applicant's claimed invention requires the use of the shared resource for storage of the pointer in non-local memory while *Robertson* does not utilize a shared resource for storage of a pointer or even a value of the program counter in non-local memory. Accordingly, Applicant's invention is not anticipated by *Robertson* '632.

With respect to the force element in Applicant's claims, Applicant requires the force to be associated with storing a pointer to an element of the shared resource. As discussed above, a shared resource is inherently stored in non-local memory, as such storage in non-local memory is required for the resource to be shared. The pointer of Applicant is associated with the shared resource, *i.e.* non-local memory. Storing a pointer, or a program counter based upon the Examiner's position, would again require *Robertson* to store the program counter in the memory configuration cache as the shared resource. However, as noted above, *Robertson* cannot store a program counter in the memory configuration cache. Accordingly, *Robertson* does not force a write operation in the manner as claimed by Applicant.

Furthermore, Applicant's claims support that a write operation to non-local memory is forced to occur prior to an action of storing the pointer to a new element of the shared resource.

To create an equivalent action in *Robertson*, the Examiner must not only define the memory configuration cache of *Robertson* as non-local memory, but also must define the steps *Robertson* will take based on an event that occurred as a “forced” operation. However, there is no support in *Robertson* for the “force” of the write operations to non-local memory to precede storing of the pointer to the new element of the shared resource, even if the non-local memory can be interpreted as memory configuration cache. To reach the Examiner’s conclusion, the Examiner asserts that the term “force” is a broad term and is “interpreted as the action *Robertson* ‘632’s system will take based on the event occurred.” However, the use of the term force implies that this is an action that must be undertaken. There is no express or inherent force operation associated with the act of storing a pointer to a new element of a shared resource in *Robertson*. “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.’ ” *In re Robertson*, 169 F.3d 743, 49 USPQ 2d 1949 (Fed. Cir. 1999), citing *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ 2d 1746, 1749 (Fed. Cir. 1991). “The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Id.* The Examiner claims that *Robertson* uses “force” and refers Applicant to Figs. 2 and 5 of *Robertson*. However, the Examiner does not show how these figures show the use of force. In searching the entirety of *Robertson*, Applicant found only a single reference to the term “force”, and this was limited to a “row access”. See Col. 30, line 33. There is no reference in *Robertson* for the use of force in the manner claimed by Applicant.

### **III. Conclusion**

Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicant requests that the Examiner indicate allowability of claims 1-25, and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is hereby invited to telephone the undersigned at the number provided.

For the reasons outlined above, withdrawal of the rejection of record and an

allowance of this application are respectfully requested.

Respectfully submitted,

By: /Rochelle Lieberman/  
Registration No. 39,276  
Attorney for Applicant

Lieberman & Brandsdorfer, LLC  
802 Still Creek Lane  
Gaithersburg, MD 20878-3218  
Phone: (301) 948-7775  
Fax: (301) 948-7774  
Email: [rocky@legalplanner.com](mailto:rocky@legalplanner.com)

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